

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff,

v.

BONFARE MARKETS, INC. dba
BONFARE MARKET #43, et al.,

Defendants.

No. 1:22-cv-00605-AWI-BAM

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DECLINING
SUPPLEMENTAL JURISDICTION OF
STATE LAW CLAIMS**

(Doc. 29.)

Plaintiff Darren Gilbert (“Plaintiff”) initiated this action on May 20, 2022. (Doc. 1.)

Following an order to show cause, on February 7, 2023, the assigned magistrate judge issued findings and recommendations recommending as follows: (1) The Court decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim and any other state law construction-related accessibility claim; and (2) Plaintiff’s Unruh Act and other state law construction-related accessibility claims be dismissed, without prejudice, pursuant to 28 U.S.C. § 1367(c)(4). (Doc. 29.) The findings and recommendations were served on Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 7.) No objections have been filed, and the time in which to do so has passed.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(c), this Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court finds that the findings and recommendations are supported by the record and proper analysis. See Vo v. Choi,

49 F.4th 1167, 1174 (9th Cir. 2022) (upholding a district court’s invocation of 28 U.S.C. § 1367(c)(4) to decline to exercise supplemental jurisdiction over accessibility related Unruh Act claims); Gilbert v. Singh, No. 121CV01338AWIHBK, 2023 WL 2239335, at *2 (E.D. Cal. Feb. 27, 2023) (noting that a plaintiff’s claims under “Cal. Health & Safety Code §§ 19955 and 19959 are ‘construction-related accessibility claims’ that are subject to the same pleading and filing requirements as Plaintiff’s Unruh Act claim”)

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued on February 7, 2023 (Doc. 29) are adopted in full;
2. Pursuant to 28 U.S.C. § 1367(c)(4) and *Vo v. Choi*, 49 F.4th 1167 (9th Cir. 2022), the Court declines to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim and Plaintiff’s Cal. Health & Safety Code § 19955 and § 19959 claims; and
3. Plaintiff’s Unruh Act and Cal. Health & Safety Code § 19955 and § 19959 claims are dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(4);
4. This matter is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: March 7, 2023



SENIOR DISTRICT JUDGE